

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION**

“Baby L.,” a minor, et al.,

*Plaintiffs,*

v.

Dr. MARK ESPER, in his official capacity as  
Secretary for the U.S. Department of Defense  
et al.,

*Defendants.*

**Civil Action No. 3:20-cv-9**

**FILED UNDER SEAL**

**PROPOSED ORDER**

Before the Court are the issues of sealing the entire record in this matter, or sealing some information and redacting other information in the record to secure various interests, including the privacy interests of Plaintiffs and the national security interests of the United States. Counsel for the parties have agreed upon proposed redactions of certain documents and exhibits, memorialized in the parties’ Joint Submission of Proposed Redactions.

Plaintiffs DOE 1 and DOE 2, a married couple, filed this action and their request for a TRO, initially under seal, on February 26, 2020, seeking emergency relief to prevent the U.S. Department of Defense from handing over “Baby L.” an orphaned infant child who had been found by U.S. forces during a military operation in a foreign country and had then received medical care at a U.S. military hospital in that country, to the government of that country.

Plaintiffs described urgent time considerations in that the U.S. Government planned to transport Baby L from the military hospital the next morning, February 27, 2020.

Following plaintiffs' 1:00 p.m. filing, the Court convened a sealed telephonic hearing at 3:30 p.m. that afternoon. Attorneys for the Government appeared and represented the interests of the United States. After the hearing, the Court issued an oral ruling denying the TRO, a redacted transcript of which shall be placed in the public record as set forth below.

The U.S. Government handed Baby L over to the representatives of the government of the foreign country on the morning of February 27, 2020, and the case became moot for purposes of the relief requested by Plaintiffs DOE 1 and DOE 2.

Plaintiffs DOE 1 and DOE 2 filed a response to this Court's Order for Further Briefing on the Motion to Seal and to Proceed under Pseudonyms on March 11, 2020, and filed a Notice of Voluntary Dismissal later that same day. Public notice of the request to seal has continued since the Motion to Seal was filed on February 27, 2020.

Having reviewed Defendants' Supplemental Response to Plaintiffs' Motion for Leave to Proceed Using Pseudonyms and Motion to Seal and the parties' Joint Submission of Proposed Redactions, and in light of the entire record herein, it is hereby ORDERED that Plaintiffs' Motion is granted in part and denied in part, as follows: Plaintiffs motion to proceed using pseudonyms is GRANTED.

I have considered less drastic alternatives to redacting the filings and proceedings. However, the interests of national security and the privacy and physical security rights of the minor child plaintiff and innocent third parties can only be preserved through the proposed redactions. In accordance with the parties' agreement as reflected in the Joint Submission of Proposed Redactions, it is hereby ORDERED that the seals on sealed filings on the docket to date are resolved as follows:

- ECF No. 4 exhibits A, B, C, D, G, K, P, X (ECF Nos. 4-1, 4-2, 4-3, 4-4, 4-7, 4-11, 4-16, and 4-24) shall remain SEALED.
- The redacted versions of ECF Nos. 1, 4 & exhibits E, F, H, I, J, L, M, N, O, W (ECF Nos. 4 (only), 4-6, 4-8, 4-9, 4-10, 4-12, 4-13, 4-14, 4-15, and 4-23), 5, 6, 10, 11, 13, 14, and 21 that were submitted with the parties' Joint Submission of Proposed Redactions are APPROVED, and the Clerk is directed to file these redacted versions on the public docket.
- The Clerk is directed to unseal exhibits Q, R, S, T, U, V of ECF No. 4 (ECF Nos. 4-17, 4-18, 4-19, 4-20, 4-21, and 4-22); 4-25; ECF No. 22; and the parties' Joint Submission of Proposed Redactions.

It is further ORDERED that the parties shall file proposed redactions of the transcript of the TRO Hearing, on the docket as ECF No. 18, on or before May 11, 2020. The redacted TRO Hearing Transcript, including its redacted Oral Order, shall serve as the public memorialization of these proceedings. The TRO Hearing transcript shall remain under seal pending further order of the Court. SO ORDERED.

Dated: \_\_\_\_\_

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Judge Norman K. Moon